

AMENDED IN SENATE JULY 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1498

Introduced by Assembly Member Campos

January 9, 2014

An act to amend Section 136.2 of the Penal Code, relating to protective orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1498, as amended, Campos. Protective orders.

Existing law authorizes a court with jurisdiction over a criminal matter to issue certain orders upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, including a protective order enjoining a party from, among other things, molesting, attacking, threatening, sexually assaulting, harassing, contacting, or coming within a specified distance of the other party, as specified.

Existing law requires a court to consider issuing a protective order on its own motion in all cases where the defendant is charged with a crime of domestic violence, as defined, and requires the court's records of all criminal cases involving domestic violence be clearly marked to alert the court of the issue. Existing law provides that a restraining order or protective order issued in a domestic violence case has precedence in enforcement over a civil court order, except as provided. Existing law authorizes the court, in any case in which a complaint, information, or indictment charging domestic violence has been filed, to consider the underlying nature of the offense charged and other specified information in determining whether good cause exists to issue a protective order.

This bill would apply these provisions to all cases where the defendant is charged with specified sex crimes, including rape, spousal rape, and crimes for which a person is required to register as a sex offender. The bill would further authorize the court, in any case in which a complaint, information, or indictment charging any of the above-described sex crimes has been filed, to consider the defendant's relationship to the victim, the likelihood of continuing harm to the victim, the defendant's criminal history, as specified, and any current protective or restraining order issued by any civil or criminal court involving the defendant.

Existing law provides that a willful and knowing violation of a protective order issued pursuant to the above-described provisions constitutes contempt of court, a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, a fine not exceeding \$1,000, or by both the imprisonment and the fine, except as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 136.2 of the Penal Code, proposed by AB 1850 and SB 910, that would become operative only if this bill and either or both of those bills are chaptered and become effective January 1, 2015, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 136.2 of the Penal Code, *as amended by*
- 2 *Section 1.5 of Chapter 291 of the Statutes of 2013*, is amended to
- 3 read:
- 4 136.2. (a) Upon a good cause belief that harm to, or
- 5 intimidation or dissuasion of, a victim or witness has occurred or
- 6 is reasonably likely to occur, a court with jurisdiction over a
- 7 criminal matter may issue orders, including, but not limited to, the
- 8 following:

1 (1) An order issued pursuant to Section 6320 of the Family
2 Code.

3 (2) An order that a defendant shall not violate any provision of
4 Section 136.1.

5 (3) An order that a person before the court other than a
6 defendant, including, but not limited to, a subpoenaed witness or
7 other person entering the courtroom of the court, shall not violate
8 any provisions of Section 136.1.

9 (4) An order that a person described in this section shall have
10 no communication whatsoever with a specified witness or a victim,
11 except through an attorney under reasonable restrictions that the
12 court may impose.

13 (5) An order calling for a hearing to determine if an order as
14 described in paragraphs (1) to (4), inclusive, should be issued.

15 (6) (A) An order that a particular law enforcement agency
16 within the jurisdiction of the court provide protection for a victim
17 or a witness, or both, or for immediate family members of a victim
18 or a witness who reside in the same household as the victim or
19 witness or within reasonable proximity of the victim's or witness'
20 household, as determined by the court. The order shall not be made
21 without the consent of the law enforcement agency except for
22 limited and specified periods of time and upon an express finding
23 by the court of a clear and present danger of harm to the victim or
24 witness or immediate family members of the victim or witness.

25 (B) For purposes of this paragraph, "immediate family
26 members" include the spouse, children, or parents of the victim
27 or witness.

28 (7) (A) An order protecting victims of violent crime from all
29 contact by the defendant, or contact, with the intent to annoy,
30 harass, threaten, or commit acts of violence, by the defendant. The
31 court or its designee shall transmit orders made under this
32 paragraph to law enforcement personnel within one business day
33 of the issuance, modification, extension, or termination of the
34 order, pursuant to subdivision (a) of Section 6380 of the Family
35 Code. It is the responsibility of the court to transmit the
36 modification, extension, or termination orders made under this
37 paragraph to the same agency that entered the original protective
38 order into the Domestic Violence Restraining Order System.

39 (B) (i) If a court does not issue an order pursuant to
40 subparagraph (A) in a case in which the defendant is charged with

1 a crime of domestic violence as defined in Section 13700, the court
2 on its own motion shall consider issuing a protective order upon
3 a good cause belief that harm to, or intimidation or dissuasion of,
4 a victim or witness has occurred or is reasonably likely to occur,
5 that provides as follows:

6 (I) The defendant shall not own, possess, purchase, receive, or
7 attempt to purchase or receive, a firearm while the protective order
8 is in effect.

9 (II) The defendant shall relinquish any firearms that he or she
10 owns or possesses pursuant to Section 527.9 of the Code of Civil
11 Procedure.

12 (ii) Every person who owns, possesses, purchases, or receives,
13 or attempts to purchase or receive, a firearm while this protective
14 order is in effect is punishable pursuant to Section 29825.

15 (C) An order issued, modified, extended, or terminated by a
16 court pursuant to this paragraph shall be issued on forms adopted
17 by the Judicial Council of California and that have been approved
18 by the Department of Justice pursuant to subdivision (i) of Section
19 6380 of the Family Code. However, the fact that an order issued
20 by a court pursuant to this section was not issued on forms adopted
21 by the Judicial Council and approved by the Department of Justice
22 shall not, in and of itself, make the order unenforceable.

23 (D) A protective order issued under this paragraph may require
24 the defendant to be placed on electronic monitoring if the local
25 government, with the concurrence of the county sheriff or the chief
26 probation officer with jurisdiction, adopts a policy to authorize
27 electronic monitoring of defendants and specifies the agency with
28 jurisdiction for this purpose. If the court determines that the
29 defendant has the ability to pay for the monitoring program, the
30 court shall order the defendant to pay for the monitoring. If the
31 court determines that the defendant does not have the ability to
32 pay for the electronic monitoring, the court may order electronic
33 monitoring to be paid for by the local government that adopted
34 the policy to authorize electronic monitoring. The duration of
35 electronic monitoring shall not exceed one year from the date the
36 order is issued. At no time shall the electronic monitoring be in
37 place if the protective order is not in place.

38 (b) A person violating an order made pursuant to paragraphs
39 (1) to (7), inclusive, of subdivision (a) may be punished for any
40 substantive offense described in Section 136.1, or for a contempt

1 of the court making the order. A finding of contempt shall not be
2 a bar to prosecution for a violation of Section 136.1. However, a
3 person so held in contempt shall be entitled to credit for punishment
4 imposed therein against a sentence imposed upon conviction of
5 an offense described in Section 136.1. A conviction or acquittal
6 for a substantive offense under Section 136.1 shall be a bar to a
7 subsequent punishment for contempt arising out of the same act.

8 (c) (1) (A) Notwithstanding subdivision (e), an emergency
9 protective order issued pursuant to Chapter 2 (commencing with
10 Section 6250) of Part 3 of Division 10 of the Family Code or
11 Section 646.91 shall have precedence in enforcement over any
12 other restraining or protective order, provided the emergency
13 protective order meets all of the following requirements:

14 (i) The emergency protective order is issued to protect one or
15 more individuals who are already protected persons under another
16 restraining or protective order.

17 (ii) The emergency protective order restrains the individual who
18 is the restrained person in the other restraining or protective order
19 specified in ~~subparagraph (A): clause (i)~~.

20 (iii) The provisions of the emergency protective order are more
21 restrictive in relation to the restrained person than are the provisions
22 of the other restraining or protective order specified in
23 ~~subparagraph (A): clause (i)~~.

24 (B) An emergency protective order that meets the requirements
25 of ~~paragraph (1) subparagraph (A)~~ shall have precedence in
26 enforcement over the provisions of any other restraining or
27 protective order only with respect to those provisions of the
28 emergency protective order that are more restrictive in relation to
29 the restrained person.

30 (2) Except as described in paragraph (1), a no-contact order, as
31 described in Section 6320 of the Family Code, shall have
32 precedence in enforcement over any other restraining or protective
33 order.

34 (d) (1) A person subject to a protective order issued under this
35 section shall not own, possess, purchase, *or* receive, or attempt to
36 purchase or ~~receive~~ *receive*, a firearm while the protective order
37 is in effect.

38 (2) The court shall order a person subject to a protective order
39 issued under this section to relinquish any firearms he or she owns

1 or possesses pursuant to Section 527.9 of the Code of Civil
2 Procedure.

3 (3) A person who owns, possesses, ~~purchases~~ *purchases*, or
4 receives, or attempts to purchase or ~~receive~~ *receive*, a firearm while
5 the protective order is in effect is punishable pursuant to Section
6 29825.

7 (e) (1) In all cases ~~where~~ *in which* the defendant is charged
8 with a crime of domestic violence, as defined in Section 13700,
9 or a violation of Section 261, 261.5, or 262, or any crime that
10 requires the defendant to register pursuant to subdivision (c) of
11 Section 290, the court shall consider issuing the above-described
12 orders on its own motion. All interested parties shall receive a
13 copy of those orders. In order to facilitate this, the court's records
14 of all criminal cases involving domestic violence or a violation of
15 Section 261, 261.5, or 262, or any crime that requires the defendant
16 to register pursuant to subdivision (c) of Section ~~290~~ 290, shall be
17 marked to clearly alert the court to this issue.

18 (2) In those cases in which a complaint, information, or
19 indictment charging a crime of domestic violence, as defined in
20 Section 13700, or a violation of Section 261, 261.5, or 262, or any
21 crime that requires the defendant to register pursuant to subdivision
22 (c) of Section ~~290~~ 290, has been issued, except as described in
23 subdivision (c), a restraining order or protective order against the
24 defendant issued by the criminal court in that case has precedence
25 in enforcement over a civil court order against the defendant.

26 (3) Custody and visitation with respect to the defendant and his
27 or her minor children may be ordered by a family or juvenile court
28 consistent with the protocol established pursuant to subdivision
29 (f), but if ordered after a criminal protective order has been issued
30 pursuant to this section, the custody and visitation order shall make
31 reference to, and, if there is not an emergency protective order that
32 has precedence in enforcement pursuant to paragraph (1) of
33 subdivision (c), or a no-contact order, as described in Section 6320
34 of the Family Code, acknowledge the precedence of enforcement
35 of, an appropriate criminal protective order. On or before July 1,
36 2014, the Judicial Council shall modify the criminal and civil court
37 forms consistent with this subdivision.

38 (f) On or before January 1, 2003, the Judicial Council shall
39 promulgate a protocol, for adoption by each local court in
40 substantially similar terms, to provide for the timely coordination

1 of all orders against the same defendant and in favor of the same
2 named victim or victims. The protocol shall include, but shall not
3 be limited to, mechanisms for ensuring appropriate communication
4 and information sharing between criminal, family, and juvenile
5 courts concerning orders and cases that involve the same parties,
6 and shall permit a family or juvenile court order to coexist with a
7 criminal court protective order subject to the following conditions:

8 (1) An order that permits contact between the restrained person
9 and his or her children shall provide for the safe exchange of the
10 children and shall not contain language either printed or
11 handwritten that violates a “no-contact order” issued by a criminal
12 court.

13 (2) Safety of all parties shall be the courts’ paramount concern.
14 The family or juvenile court shall specify the time, day, place, and
15 manner of transfer of the child, as provided in Section 3100 of the
16 Family Code.

17 (g) On or before January 1, 2003, the Judicial Council shall
18 modify the criminal and civil court protective order forms
19 consistent with this section.

20 (h) (1) In any case in which a complaint, information, or
21 indictment charging a crime of domestic violence, as defined in
22 Section 13700, has been filed, the court may consider, in
23 determining whether good cause exists to issue an order under
24 paragraph (1) of subdivision (a), the underlying nature of the
25 offense charged, and the information provided to the court pursuant
26 to Section 273.75.

27 (2) In any case in which a complaint, information, or indictment
28 charging a violation of Section 261, 261.5, or 262, or any crime
29 that requires the defendant to register pursuant to subdivision (c)
30 of Section ~~290~~ 290, has been filed, the court may consider, in
31 determining whether good cause exists to issue an order under
32 paragraph (1) of subdivision (a), the underlying nature of the
33 offense charged, the defendant’s relationship to the victim, the
34 likelihood of continuing harm to the victim, any current restraining
35 order or protective order issued by any civil or criminal court
36 involving the defendant, and the defendant’s criminal history,
37 including, but not limited to, prior convictions for a violation of
38 Section 261, 261.5, or 262, or any crime that requires the defendant
39 to register pursuant to subdivision (c) of Section 290, or any other
40 forms of violence, or any weapons offenses.

(i) (1) In all cases in which a criminal defendant has been convicted of a crime of domestic violence as defined in Section 13700, a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290, the court, at the time of sentencing, shall consider issuing an order restraining the defendant from any contact with the victim. The order may be valid for up to 10 years, as determined by the court. This protective order may be issued by the court regardless of whether the defendant is sentenced to the state prison or a county jail, or whether imposition of sentence is suspended and the defendant is placed on probation. It is the intent of the Legislature in enacting this subdivision that the duration of any restraining order issued by the court be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family.

(2) An order under this subdivision may include provisions for electronic monitoring if the local government, upon receiving the concurrence of the county sheriff or the chief probation officer with jurisdiction, adopts a policy authorizing electronic monitoring of defendants and specifies the agency with jurisdiction for this purpose. If the court determines that the defendant has the ability to pay for the monitoring program, the court shall order the defendant to pay for the monitoring. If the court determines that the defendant does not have the ability to pay for the electronic monitoring, the court may order the electronic monitoring to be paid for by the local government that adopted the policy authorizing electronic monitoring. The duration of the electronic monitoring shall not exceed one year from the date the order is issued.

(j) For purposes of this section, “local government” means the county that has jurisdiction over the protective order.

SEC. 1.1. Section 136.2 of the Penal Code, as amended by Section 1.5 of Chapter 291 of the Statutes of 2013, is amended to read:

136.2. (a) (1) Upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, a court with jurisdiction over a criminal matter may issue orders, including, but not limited to, the following:

(+)

1 (A) An order issued pursuant to Section 6320 of the Family
2 Code.

3 ~~(2)~~

4 (B) An order that a defendant shall not violate any provision of
5 Section 136.1.

6 ~~(3)~~

7 (C) An order that a person before the court other than a
8 defendant, including, but not limited to, a subpoenaed witness or
9 other person entering the courtroom of the court, shall not violate
10 any provisions of Section 136.1.

11 ~~(4)~~

12 (D) An order that a person described in this section shall have
13 no communication whatsoever with a specified witness or a victim,
14 except through an attorney under reasonable restrictions that the
15 court may impose.

16 ~~(5)~~

17 (E) An order calling for a hearing to determine if an order as
18 described in ~~paragraphs (1) to (4)~~, *subparagraphs (A) to (D)*,
19 inclusive, should be issued.

20 ~~(6) (A)~~

21 (F) (i) An order that a particular law enforcement agency within
22 the jurisdiction of the court provide protection for a victim or a
23 witness, or both, or for immediate family members of a victim or
24 a witness who reside in the same household as the victim or witness
25 or within reasonable proximity of the victim's or witness'
26 household, as determined by the court. The order shall not be made
27 without the consent of the law enforcement agency except for
28 limited and specified periods of time and upon an express finding
29 by the court of a clear and present danger of harm to the victim or
30 witness or immediate family members of the victim or witness.

31 ~~(B)~~

32 (ii) For purposes of this paragraph, "immediate family members"
33 include the spouse, children, or parents of the victim or witness.

34 ~~(7) (A)~~

35 (G) (i) An order protecting ~~victims~~ *a victim or witness* of violent
36 crime from all contact by the defendant, or contact, with the intent
37 to annoy, harass, threaten, or commit acts of violence, by the
38 defendant. The court or its designee shall transmit orders made
39 under this paragraph to law enforcement personnel within one
40 business day of the issuance, modification, extension, or

1 termination of the order, pursuant to subdivision (a) of Section
2 6380 of the Family Code. It is the responsibility of the court to
3 transmit the modification, extension, or termination orders made
4 under this paragraph to the same agency that entered the original
5 protective order into the Domestic Violence Restraining Order
6 System.

7 ~~(B) (i)~~

8 *(ii) (I)* If a court does not issue an order pursuant to
9 ~~subparagraph (A) clause (i)~~ in a case in which the defendant is
10 charged with a crime of domestic violence as defined in Section
11 13700, the court on its own motion shall consider issuing a
12 protective order upon a good cause belief that harm to, or
13 intimidation or dissuasion of, a victim or witness has occurred or
14 is reasonably likely to occur, that provides as follows:

15 ~~(H)~~

16 *(ia)* The defendant shall not own, possess, purchase, receive,
17 or attempt to purchase or receive, a firearm while the protective
18 order is in effect.

19 ~~(H)~~

20 *(ib)* The defendant shall relinquish any firearms that he or she
21 owns or possesses pursuant to Section 527.9 of the Code of Civil
22 Procedure.

23 ~~(ii)~~

24 *(II)* Every person who owns, possesses, purchases, or receives,
25 or attempts to purchase or receive, a firearm while this protective
26 order is in effect is punishable pursuant to Section 29825.

27 ~~(C)~~

28 *(iii)* An order issued, modified, extended, or terminated by a
29 court pursuant to this ~~paragraph~~ *subparagraph* shall be issued on
30 forms adopted by the Judicial Council of California and that have
31 been approved by the Department of Justice pursuant to subdivision
32 (i) of Section 6380 of the Family Code. However, the fact that an
33 order issued by a court pursuant to this section was not issued on
34 forms adopted by the Judicial Council and approved by the
35 Department of Justice shall not, in and of itself, make the order
36 unenforceable.

37 ~~(D)~~

38 *(iv)* A protective order issued under this ~~paragraph~~ *subparagraph*
39 may require the defendant to be placed on electronic monitoring
40 if the local government, with the concurrence of the county sheriff

1 or the chief probation officer with jurisdiction, adopts a policy to
2 authorize electronic monitoring of defendants and specifies the
3 agency with jurisdiction for this purpose. If the court determines
4 that the defendant has the ability to pay for the monitoring program,
5 the court shall order the defendant to pay for the monitoring. If
6 the court determines that the defendant does not have the ability
7 to pay for the electronic monitoring, the court may order electronic
8 monitoring to be paid for by the local government that adopted
9 the policy to authorize electronic monitoring. The duration of
10 electronic monitoring shall not exceed one year from the date the
11 order is issued. At no time shall the electronic monitoring be in
12 place if the protective order is not in place.

13 *(2) For purposes of this subdivision, a minor who was not a*
14 *victim of, but who was physically present at the time of, an act of*
15 *domestic violence, is a witness and is deemed to have suffered*
16 *harm within the meaning of paragraph (1).*

17 (b) A person violating an order made pursuant to ~~paragraphs~~
18 ~~(4) to (7), subparagraphs (A) to (G), inclusive, of paragraph (1)~~
19 of subdivision (a) may be punished for any substantive offense
20 described in Section 136.1, or for a contempt of the court making
21 the order. A finding of contempt shall not be a bar to prosecution
22 for a violation of Section 136.1. However, a person so held in
23 contempt shall be entitled to credit for punishment imposed therein
24 against a sentence imposed upon conviction of an offense described
25 in Section 136.1. A conviction or acquittal for a substantive offense
26 under Section 136.1 shall be a bar to a subsequent punishment for
27 contempt arising out of the same act.

28 (c) (1) (A) Notwithstanding subdivision (e), an emergency
29 protective order issued pursuant to Chapter 2 (commencing with
30 Section 6250) of Part 3 of Division 10 of the Family Code or
31 Section 646.91 shall have precedence in enforcement over any
32 other restraining or protective order, provided the emergency
33 protective order meets all of the following requirements:

34 (i) The emergency protective order is issued to protect one or
35 more individuals who are already protected persons under another
36 restraining or protective order.

37 (ii) The emergency protective order restrains the individual who
38 is the restrained person in the other restraining or protective order
39 specified in ~~subparagraph (A).~~ clause (i).

(iii) The provisions of the emergency protective order are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order specified in ~~subparagraph (A): clause (i).~~

(B) An emergency protective order that meets the requirements of ~~paragraph (1) subparagraph (A)~~ shall have precedence in enforcement over the provisions of any other restraining or protective order only with respect to those provisions of the emergency protective order that are more restrictive in relation to the restrained person.

(2) Except as described in paragraph (1), a no-contact order, as described in Section 6320 of the Family Code, shall have precedence in enforcement over any other restraining or protective order.

(d) (1) A person subject to a protective order issued under this section shall not own, possess, purchase, *or* receive, or attempt to purchase or ~~receive~~ *receive*, a firearm while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(3) A person who owns, possesses, ~~purchases~~ *purchases*, or receives, or attempts to purchase or ~~receive~~ *receive*, a firearm while the protective order is in effect is punishable pursuant to Section 29825.

(e) (1) In all cases ~~where in which~~ the defendant is charged with a crime of domestic violence, as defined in Section 13700, *or a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290*, the court shall consider issuing the above-described orders on its own motion. All interested parties shall receive a copy of those orders. In order to facilitate this, the court's records of all criminal cases involving domestic violence *or a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290*, shall be marked to clearly alert the court to this issue.

(2) In those cases in which a complaint, information, or indictment charging a crime of domestic violence, as defined in Section 13700, *or a violation of Section 261, 261.5, or 262, or any*

1 *crime that requires the defendant to register pursuant to*
2 *subdivision (c) of Section 290, has been issued, except as described*
3 *in subdivision (c), a restraining order or protective order against*
4 *the defendant issued by the criminal court in that case has*
5 *precedence in enforcement over a civil court order against the*
6 *defendant.*

7 (3) Custody and visitation with respect to the defendant and his
8 or her minor children may be ordered by a family or juvenile court
9 consistent with the protocol established pursuant to subdivision
10 (f), but if ordered after a criminal protective order has been issued
11 pursuant to this section, the custody and visitation order shall make
12 reference to, and, if there is not an emergency protective order that
13 has precedence in enforcement pursuant to paragraph (1) of
14 subdivision (c), or a no-contact order, as described in Section 6320
15 of the Family Code, acknowledge the precedence of enforcement
16 of, an appropriate criminal protective order. On or before July 1,
17 2014, the Judicial Council shall modify the criminal and civil court
18 forms consistent with this subdivision.

19 (f) On or before January 1, 2003, the Judicial Council shall
20 promulgate a protocol, for adoption by each local court in
21 substantially similar terms, to provide for the timely coordination
22 of all orders against the same defendant and in favor of the same
23 named victim or victims. The protocol shall include, but shall not
24 be limited to, mechanisms for ensuring appropriate communication
25 and information sharing between criminal, family, and juvenile
26 courts concerning orders and cases that involve the same parties,
27 and shall permit a family or juvenile court order to coexist with a
28 criminal court protective order subject to the following conditions:

29 (1) An order that permits contact between the restrained person
30 and his or her children shall provide for the safe exchange of the
31 children and shall not contain language either printed or
32 handwritten that violates a “no-contact order” issued by a criminal
33 court.

34 (2) Safety of all parties shall be the courts’ paramount concern.
35 The family or juvenile court shall specify the time, day, place, and
36 manner of transfer of the child, as provided in Section 3100 of the
37 Family Code.

38 (g) On or before January 1, 2003, the Judicial Council shall
39 modify the criminal and civil court protective order forms
40 consistent with this section.

1 (h) (1) In any case in which a complaint, information, or
2 indictment charging a crime of domestic violence, as defined in
3 Section 13700, has been filed, the court may consider, in
4 determining whether good cause exists to issue an order under
5 *subparagraph (A) of paragraph (1) of subdivision (a)*, the
6 underlying nature of the offense charged, and the information
7 provided to the court pursuant to Section 273.75.

8 (2) *In any case in which a complaint, information, or indictment*
9 *charging a violation of Section 261, 261.5, or 262, or any crime*
10 *that requires the defendant to register pursuant to subdivision (c)*
11 *of Section 290, has been filed, the court may consider, in*
12 *determining whether good cause exists to issue an order under*
13 *paragraph (1) of subdivision (a), the underlying nature of the*
14 *offense charged, the defendant's relationship to the victim, the*
15 *likelihood of continuing harm to the victim, any current restraining*
16 *order or protective order issued by any civil or criminal court*
17 *involving the defendant, and the defendant's criminal history,*
18 *including, but not limited to, prior convictions for a violation of*
19 *Section 261, 261.5, or 262, or any crime that requires the defendant*
20 *to register pursuant to subdivision (c) of Section 290, or any other*
21 *forms of violence, or any weapons offenses.*

22 (i) (1) In all cases in which a criminal defendant has been
23 convicted of a crime of domestic violence as defined in Section
24 13700, a violation of Section 261, 261.5, or 262, or any crime that
25 requires the defendant to register pursuant to subdivision (c) of
26 Section 290, the court, at the time of sentencing, shall consider
27 issuing an order restraining the defendant from any contact with
28 the victim. The order may be valid for up to 10 years, as determined
29 by the court. This protective order may be issued by the court
30 regardless of whether the defendant is sentenced to the state prison
31 or a county jail, or whether imposition of sentence is suspended
32 and the defendant is placed on probation. It is the intent of the
33 Legislature in enacting this subdivision that the duration of any
34 restraining order issued by the court be based upon the seriousness
35 of the facts before the court, the probability of future violations,
36 and the safety of the victim and his or her immediate family.

37 (2) An order under this subdivision may include provisions for
38 electronic monitoring if the local government, upon receiving the
39 concurrence of the county sheriff or the chief probation officer
40 with jurisdiction, adopts a policy authorizing electronic monitoring

1 of defendants and specifies the agency with jurisdiction for this
2 purpose. If the court determines that the defendant has the ability
3 to pay for the monitoring program, the court shall order the
4 defendant to pay for the monitoring. If the court determines that
5 the defendant does not have the ability to pay for the electronic
6 monitoring, the court may order the electronic monitoring to be
7 paid for by the local government that adopted the policy authorizing
8 electronic monitoring. The duration of the electronic monitoring
9 shall not exceed one year from the date the order is issued.

10 (j) For purposes of this section, “local government” means the
11 county that has jurisdiction over the protective order.

12 *SEC. 1.2. Section 136.2 of the Penal Code, as amended by*
13 *Section 1.5 of Chapter 291 of the Statutes of 2013, is amended to*
14 *read:*

15 136.2. (a) Upon a good cause belief that harm to, or
16 intimidation or dissuasion of, a victim or witness has occurred or
17 is reasonably likely to occur, a court with jurisdiction over a
18 criminal matter may issue orders, including, but not limited to, the
19 following:

20 (1) An order issued pursuant to Section 6320 of the Family
21 Code.

22 (2) An order that a defendant shall not violate any provision of
23 Section 136.1.

24 (3) An order that a person before the court other than a
25 defendant, including, but not limited to, a subpoenaed witness or
26 other person entering the courtroom of the court, shall not violate
27 any provisions of Section 136.1.

28 (4) An order that a person described in this section shall have
29 no communication whatsoever with a specified witness or a victim,
30 except through an attorney under reasonable restrictions that the
31 court may impose.

32 (5) An order calling for a hearing to determine if an order as
33 described in paragraphs (1) to (4), inclusive, should be issued.

34 (6) (A) An order that a particular law enforcement agency
35 within the jurisdiction of the court provide protection for a victim
36 or a witness, or both, or for immediate family members of a victim
37 or a witness who reside in the same household as the victim or
38 witness or within reasonable proximity of the victim’s or witness’
39 household, as determined by the court. The order shall not be made
40 without the consent of the law enforcement agency except for

1 limited and specified periods of time and upon an express finding
2 by the court of a clear and present danger of harm to the victim or
3 witness or immediate family members of the victim or witness.

4 (B) For purposes of this paragraph, “immediate family
5 members” include the spouse, children, or parents of the victim
6 or witness.

7 (7) (A) An order protecting victims of violent crime from all
8 contact by the defendant, or contact, with the intent to annoy,
9 harass, threaten, or commit acts of violence, by the defendant. The
10 court or its designee shall transmit orders made under this
11 paragraph to law enforcement personnel within one business day
12 of the issuance, modification, extension, or termination of the
13 order, pursuant to subdivision (a) of Section 6380 of the Family
14 Code. It is the responsibility of the court to transmit the
15 modification, extension, or termination orders made under this
16 paragraph to the same agency that entered the original protective
17 order into the Domestic Violence Restraining Order System.

18 (B) (i) If a court does not issue an order pursuant to
19 subparagraph (A) in a case in which the defendant is charged with
20 a crime ~~of involving~~ domestic violence as defined in Section ~~13700;~~
21 *13700 or in Section 6211 of the Family Code*, the court on its own
22 motion shall consider issuing a protective order upon a good cause
23 belief that harm to, or intimidation or dissuasion of, a victim or
24 witness has occurred or is reasonably likely to occur, that provides
25 as follows:

26 (I) The defendant shall not own, possess, purchase, receive, or
27 attempt to purchase or receive, a firearm while the protective order
28 is in effect.

29 (II) The defendant shall relinquish any firearms that he or she
30 owns or possesses pursuant to Section 527.9 of the Code of Civil
31 Procedure.

32 (ii) Every person who owns, possesses, purchases, or receives,
33 or attempts to purchase or receive, a firearm while this protective
34 order is in effect is punishable pursuant to Section 29825.

35 (C) An order issued, modified, extended, or terminated by a
36 court pursuant to this paragraph shall be issued on forms adopted
37 by the Judicial Council of California and that have been approved
38 by the Department of Justice pursuant to subdivision (i) of Section
39 6380 of the Family Code. However, the fact that an order issued
40 by a court pursuant to this section was not issued on forms adopted

1 by the Judicial Council and approved by the Department of Justice
2 shall not, in and of itself, make the order unenforceable.

3 (D) A protective order issued under this paragraph may require
4 the defendant to be placed on electronic monitoring if the local
5 government, with the concurrence of the county sheriff or the chief
6 probation officer with jurisdiction, adopts a policy to authorize
7 electronic monitoring of defendants and specifies the agency with
8 jurisdiction for this purpose. If the court determines that the
9 defendant has the ability to pay for the monitoring program, the
10 court shall order the defendant to pay for the monitoring. If the
11 court determines that the defendant does not have the ability to
12 pay for the electronic monitoring, the court may order electronic
13 monitoring to be paid for by the local government that adopted
14 the policy to authorize electronic monitoring. The duration of
15 electronic monitoring shall not exceed one year from the date the
16 order is issued. At no time shall the electronic monitoring be in
17 place if the protective order is not in place.

18 (b) A person violating an order made pursuant to paragraphs
19 (1) to (7), inclusive, of subdivision (a) may be punished for any
20 substantive offense described in Section 136.1, or for a contempt
21 of the court making the order. A finding of contempt shall not be
22 a bar to prosecution for a violation of Section 136.1. However, a
23 person so held in contempt shall be entitled to credit for punishment
24 imposed therein against a sentence imposed upon conviction of
25 an offense described in Section 136.1. A conviction or acquittal
26 for a substantive offense under Section 136.1 shall be a bar to a
27 subsequent punishment for contempt arising out of the same act.

28 (c) (1) (A) Notwithstanding subdivision (e), an emergency
29 protective order issued pursuant to Chapter 2 (commencing with
30 Section 6250) of Part 3 of Division 10 of the Family Code or
31 Section 646.91 shall have precedence in enforcement over any
32 other restraining or protective order, provided the emergency
33 protective order meets all of the following requirements:

34 (i) The emergency protective order is issued to protect one or
35 more individuals who are already protected persons under another
36 restraining or protective order.

37 (ii) The emergency protective order restrains the individual who
38 is the restrained person in the other restraining or protective order
39 specified in ~~subparagraph (A)~~. *clause (i)*.

(iii) The provisions of the emergency protective order are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order specified in subparagraph (A). *clause (i)*.

(B) An emergency protective order that meets the requirements of ~~paragraph (1)~~ *subparagraph (A)* shall have precedence in enforcement over the provisions of any other restraining or protective order only with respect to those provisions of the emergency protective order that are more restrictive in relation to the restrained person.

(2) Except as described in paragraph (1), a no-contact order, as described in Section 6320 of the Family Code, shall have precedence in enforcement over any other restraining or protective order.

(d) (1) A person subject to a protective order issued under this section shall not own, possess, purchase, *or* receive, or attempt to purchase or ~~receive~~ *receive*, a firearm while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(3) A person who owns, possesses, ~~purchases~~ *purchases*, or receives, or attempts to purchase or ~~receive~~ *receive*, a firearm while the protective order is in effect is punishable pursuant to Section 29825.

(e) (1) In all cases ~~where in which~~ the defendant is charged with a crime ~~of involving~~ domestic violence, as defined in Section ~~13700, 13700 or in Section 6211 of the Family Code, or a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290,~~ the court shall consider issuing the above-described orders on its own motion. All interested parties shall receive a copy of those orders. In order to facilitate this, the court's records of all criminal cases involving domestic violence *or a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290,* shall be marked to clearly alert the court to this issue.

(2) In those cases in which a complaint, information, or indictment charging a crime ~~of involving~~ domestic violence, as

1 defined in Section ~~13700~~, 13700 or in Section 6211 of the Family
2 Code, or a violation of Section 261, 261.5, or 262, or any crime
3 that requires the defendant to register pursuant to subdivision (c)
4 of Section 290, has been issued, except as described in subdivision
5 (c), a restraining order or protective order against the defendant
6 issued by the criminal court in that case has precedence in
7 enforcement over a civil court order against the defendant.

8 (3) Custody and visitation with respect to the defendant and his
9 or her minor children may be ordered by a family or juvenile court
10 consistent with the protocol established pursuant to subdivision
11 (f), but if ordered after a criminal protective order has been issued
12 pursuant to this section, the custody and visitation order shall make
13 reference to, and, if there is not an emergency protective order that
14 has precedence in enforcement pursuant to paragraph (1) of
15 subdivision (c), or a no-contact order, as described in Section 6320
16 of the Family Code, acknowledge the precedence of enforcement
17 of, an appropriate criminal protective order. On or before July 1,
18 2014, the Judicial Council shall modify the criminal and civil court
19 forms consistent with this subdivision.

20 (f) On or before January 1, 2003, the Judicial Council shall
21 promulgate a protocol, for adoption by each local court in
22 substantially similar terms, to provide for the timely coordination
23 of all orders against the same defendant and in favor of the same
24 named victim or victims. The protocol shall include, but shall not
25 be limited to, mechanisms for ensuring appropriate communication
26 and information sharing between criminal, family, and juvenile
27 courts concerning orders and cases that involve the same parties,
28 and shall permit a family or juvenile court order to coexist with a
29 criminal court protective order subject to the following conditions:

30 (1) An order that permits contact between the restrained person
31 and his or her children shall provide for the safe exchange of the
32 children and shall not contain language either printed or
33 handwritten that violates a “no-contact order” issued by a criminal
34 court.

35 (2) Safety of all parties shall be the courts’ paramount concern.
36 The family or juvenile court shall specify the time, day, place, and
37 manner of transfer of the child, as provided in Section 3100 of the
38 Family Code.

(g) On or before January 1, 2003, the Judicial Council shall modify the criminal and civil court protective order forms consistent with this section.

(h) (1) In any case in which a complaint, information, or indictment charging a crime ~~of involving~~ domestic violence, as defined in Section ~~43700~~, 13700 or in Section 6211 of the Family Code, has been filed, the court may consider, in determining whether good cause exists to issue an order under paragraph (1) of subdivision (a), the underlying nature of the offense charged, and the information provided to the court pursuant to Section 273.75.

(2) *In any case in which a complaint, information, or indictment charging a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290, has been filed, the court may consider, in determining whether good cause exists to issue an order under paragraph (1) of subdivision (a), the underlying nature of the offense charged, the defendant's relationship to the victim, the likelihood of continuing harm to the victim, any current restraining order or protective order issued by any civil or criminal court involving the defendant, and the defendant's criminal history, including, but not limited to, prior convictions for a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290, or any other forms of violence, or any weapons offenses.*

(i) (1) In all cases in which a criminal defendant has been convicted of a crime ~~of involving~~ domestic violence as defined in Section ~~43700~~, 13700 or in Section 6211 of the Family Code, a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c) of Section 290, the court, at the time of sentencing, shall consider issuing an order restraining the defendant from any contact with the victim. The order may be valid for up to 10 years, as determined by the court. This protective order may be issued by the court regardless of whether the defendant is sentenced to the state prison or a county jail, or whether imposition of sentence is suspended and the defendant is placed on probation. It is the intent of the Legislature in enacting this subdivision that the duration of any restraining order issued by the court be based upon the seriousness of the facts

1 before the court, the probability of future violations, and the safety
2 of the victim and his or her immediate family.

3 (2) An order under this subdivision may include provisions for
4 electronic monitoring if the local government, upon receiving the
5 concurrence of the county sheriff or the chief probation officer
6 with jurisdiction, adopts a policy authorizing electronic monitoring
7 of defendants and specifies the agency with jurisdiction for this
8 purpose. If the court determines that the defendant has the ability
9 to pay for the monitoring program, the court shall order the
10 defendant to pay for the monitoring. If the court determines that
11 the defendant does not have the ability to pay for the electronic
12 monitoring, the court may order the electronic monitoring to be
13 paid for by the local government that adopted the policy authorizing
14 electronic monitoring. The duration of the electronic monitoring
15 shall not exceed one year from the date the order is issued.

16 (j) For purposes of this section, “local government” means the
17 county that has jurisdiction over the protective order.

18 *SEC. 1.3. Section 136.2 of the Penal Code, as amended by*
19 *Section 1.5 of Chapter 291 of the Statutes of 2013, is amended to*
20 *read:*

21 136.2. (a) (1) Upon a good cause belief that harm to, or
22 intimidation or dissuasion of, a victim or witness has occurred or
23 is reasonably likely to occur, a court with jurisdiction over a
24 criminal matter may issue orders, including, but not limited to, the
25 following:

26 ~~(1)~~

27 (A) An order issued pursuant to Section 6320 of the Family
28 Code.

29 ~~(2)~~

30 (B) An order that a defendant shall not violate any provision of
31 Section 136.1.

32 ~~(3)~~

33 (C) An order that a person before the court other than a
34 defendant, including, but not limited to, a subpoenaed witness or
35 other person entering the courtroom of the court, shall not violate
36 any provisions of Section 136.1.

37 ~~(4)~~

38 (D) An order that a person described in this section shall have
39 no communication whatsoever with a specified witness or a victim,

1 except through an attorney under reasonable restrictions that the
2 court may impose.

3 ~~(5)~~

4 (E) An order calling for a hearing to determine if an order as
5 described in ~~paragraphs (1) to (4)~~, *subparagraphs (A) to (D)*,
6 inclusive, should be issued.

7 ~~(6) (A)~~

8 (F) (i) An order that a particular law enforcement agency within
9 the jurisdiction of the court provide protection for a victim or a
10 witness, or both, or for immediate family members of a victim or
11 a witness who reside in the same household as the victim or witness
12 or within reasonable proximity of the victim's or witness'
13 household, as determined by the court. The order shall not be made
14 without the consent of the law enforcement agency except for
15 limited and specified periods of time and upon an express finding
16 by the court of a clear and present danger of harm to the victim or
17 witness or immediate family members of the victim or witness.

18 ~~(B)~~

19 (ii) For purposes of this paragraph, "immediate family members"
20 include the spouse, children, or parents of the victim or witness.

21 ~~(7) (A)~~

22 (G) (i) An order protecting ~~victims~~ *a victim or witness* of violent
23 crime from all contact by the defendant, or contact, with the intent
24 to annoy, harass, threaten, or commit acts of violence, by the
25 defendant. The court or its designee shall transmit orders made
26 under this paragraph to law enforcement personnel within one
27 business day of the issuance, modification, extension, or
28 termination of the order, pursuant to subdivision (a) of Section
29 6380 of the Family Code. It is the responsibility of the court to
30 transmit the modification, extension, or termination orders made
31 under this paragraph to the same agency that entered the original
32 protective order into the Domestic Violence Restraining Order
33 System.

34 ~~(B) (i)~~

35 (ii) (I) If a court does not issue an order pursuant to
36 ~~subparagraph (A) clause (i)~~ in a case in which the defendant is
37 charged with a crime ~~of involving~~ domestic violence as defined in
38 ~~Section 13700, 13700 or in Section 6211 of the Family Code~~, the
39 court on its own motion shall consider issuing a protective order
40 upon a good cause belief that harm to, or intimidation or dissuasion

1 of, a victim or witness has occurred or is reasonably likely to occur,
2 that provides as follows:

3 (H)

4 (ia) The defendant shall not own, possess, purchase, receive,
5 or attempt to purchase or receive, a firearm while the protective
6 order is in effect.

7 (H)

8 (ib) The defendant shall relinquish any firearms that he or she
9 owns or possesses pursuant to Section 527.9 of the Code of Civil
10 Procedure.

11 (ii)

12 (II) Every person who owns, possesses, purchases, or receives,
13 or attempts to purchase or receive, a firearm while this protective
14 order is in effect is punishable pursuant to Section 29825.

15 (C)

16 (iii) An order issued, modified, extended, or terminated by a
17 court pursuant to this ~~paragraph~~ *subparagraph* shall be issued on
18 forms adopted by the Judicial Council of California and that have
19 been approved by the Department of Justice pursuant to subdivision
20 (i) of Section 6380 of the Family Code. However, the fact that an
21 order issued by a court pursuant to this section was not issued on
22 forms adopted by the Judicial Council and approved by the
23 Department of Justice shall not, in and of itself, make the order
24 unenforceable.

25 (D)

26 (iv) A protective order issued under this ~~paragraph~~ *subparagraph*
27 may require the defendant to be placed on electronic monitoring
28 if the local government, with the concurrence of the county sheriff
29 or the chief probation officer with jurisdiction, adopts a policy to
30 authorize electronic monitoring of defendants and specifies the
31 agency with jurisdiction for this purpose. If the court determines
32 that the defendant has the ability to pay for the monitoring program,
33 the court shall order the defendant to pay for the monitoring. If
34 the court determines that the defendant does not have the ability
35 to pay for the electronic monitoring, the court may order electronic
36 monitoring to be paid for by the local government that adopted
37 the policy to authorize electronic monitoring. The duration of
38 electronic monitoring shall not exceed one year from the date the
39 order is issued. At no time shall the electronic monitoring be in
40 place if the protective order is not in place.

1 (2) *For purposes of this subdivision, a minor who was not a*
2 *victim of, but who was physically present at the time of, an act of*
3 *domestic violence, is a witness and is deemed to have suffered*
4 *harm within the meaning of paragraph (1).*

5 (b) A person violating an order made pursuant to ~~paragraphs~~
6 ~~(1) to (7), subparagraphs (A) to (G), inclusive, of paragraph (1)~~
7 *of subdivision (a) may be punished for any substantive offense*
8 *described in Section 136.1, or for a contempt of the court making*
9 *the order. A finding of contempt shall not be a bar to prosecution*
10 *for a violation of Section 136.1. However, a person so held in*
11 *contempt shall be entitled to credit for punishment imposed therein*
12 *against a sentence imposed upon conviction of an offense described*
13 *in Section 136.1. A conviction or acquittal for a substantive offense*
14 *under Section 136.1 shall be a bar to a subsequent punishment for*
15 *contempt arising out of the same act.*

16 (c) (1) (A) Notwithstanding subdivision (e), an emergency
17 protective order issued pursuant to Chapter 2 (commencing with
18 Section 6250) of Part 3 of Division 10 of the Family Code or
19 Section 646.91 shall have precedence in enforcement over any
20 other restraining or protective order, provided the emergency
21 protective order meets all of the following requirements:

22 (i) The emergency protective order is issued to protect one or
23 more individuals who are already protected persons under another
24 restraining or protective order.

25 (ii) The emergency protective order restrains the individual who
26 is the restrained person in the other restraining or protective order
27 specified in ~~subparagraph (A): clause (i).~~

28 (iii) The provisions of the emergency protective order are more
29 restrictive in relation to the restrained person than are the provisions
30 of the other restraining or protective order specified in
31 ~~subparagraph (A): clause (i).~~

32 (B) An emergency protective order that meets the requirements
33 of ~~paragraph (1) subparagraph (A)~~ shall have precedence in
34 enforcement over the provisions of any other restraining or
35 protective order only with respect to those provisions of the
36 emergency protective order that are more restrictive in relation to
37 the restrained person.

38 (2) Except as described in paragraph (1), a no-contact order, as
39 described in Section 6320 of the Family Code, shall have

1 precedence in enforcement over any other restraining or protective
2 order.

3 (d) (1) A person subject to a protective order issued under this
4 section shall not own, possess, purchase, *or* receive, or attempt to
5 purchase or ~~receive~~ *receive*, a firearm while the protective order
6 is in effect.

7 (2) The court shall order a person subject to a protective order
8 issued under this section to relinquish any firearms he or she owns
9 or possesses pursuant to Section 527.9 of the Code of Civil
10 Procedure.

11 (3) A person who owns, possesses, ~~purchases~~ *purchases*, or
12 receives, or attempts to purchase or ~~receive~~ *receive*, a firearm while
13 the protective order is in effect is punishable pursuant to Section
14 29825.

15 (e) (1) In all cases ~~where~~ *in which* the defendant is charged
16 with a crime ~~of involving domestic violence, as defined in Section~~
17 ~~13700, 13700 or in Section 6211 of the Family Code, or a violation~~
18 ~~of Section 261, 261.5, or 262, or any crime that requires the~~
19 ~~defendant to register pursuant to subdivision (c) of Section 290,~~
20 the court shall consider issuing the above-described orders on its
21 own motion. All interested parties shall receive a copy of those
22 orders. In order to facilitate this, the court's records of all criminal
23 cases involving domestic violence *or a violation of Section 261,*
24 *261.5, or 262, or any crime that requires the defendant to register*
25 *pursuant to subdivision (c) of Section 290,* shall be marked to
26 clearly alert the court to this issue.

27 (2) In those cases in which a complaint, information, or
28 indictment charging a crime ~~of involving domestic violence, as~~
29 ~~defined in Section 13700, 13700 or in Section 6211 of the Family~~
30 ~~Code, or a violation of Section 261, 261.5, or 262, or any crime~~
31 ~~that requires the defendant to register pursuant to subdivision (c)~~
32 ~~of Section 290,~~ has been issued, except as described in subdivision
33 (c), a restraining order or protective order against the defendant
34 issued by the criminal court in that case has precedence in
35 enforcement over a civil court order against the defendant.

36 (3) Custody and visitation with respect to the defendant and his
37 or her minor children may be ordered by a family or juvenile court
38 consistent with the protocol established pursuant to subdivision
39 (f), but if ordered after a criminal protective order has been issued
40 pursuant to this section, the custody and visitation order shall make

reference to, and, if there is not an emergency protective order that has precedence in enforcement pursuant to paragraph (1) of subdivision (c), or a no-contact order, as described in Section 6320 of the Family Code, acknowledge the precedence of enforcement of, an appropriate criminal protective order. On or before July 1, 2014, the Judicial Council shall modify the criminal and civil court forms consistent with this subdivision.

(f) On or before January 1, 2003, the Judicial Council shall promulgate a protocol, for adoption by each local court in substantially similar terms, to provide for the timely coordination of all orders against the same defendant and in favor of the same named victim or victims. The protocol shall include, but shall not be limited to, mechanisms for ensuring appropriate communication and information sharing between criminal, family, and juvenile courts concerning orders and cases that involve the same parties, and shall permit a family or juvenile court order to coexist with a criminal court protective order subject to the following conditions:

(1) An order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a “no-contact order” issued by a criminal court.

(2) Safety of all parties shall be the courts’ paramount concern. The family or juvenile court shall specify the time, day, place, and manner of transfer of the child, as provided in Section 3100 of the Family Code.

(g) On or before January 1, 2003, the Judicial Council shall modify the criminal and civil court protective order forms consistent with this section.

(h) (1) In any case in which a complaint, information, or indictment charging a crime ~~of involving~~ domestic violence, as defined in Section ~~43700~~, 13700 or in Section 6211 of the Family Code, has been filed, the court may consider, in determining whether good cause exists to issue an order under *subparagraph (A) of paragraph (1) of subdivision (a)*, the underlying nature of the offense charged, and the information provided to the court pursuant to Section 273.75.

(2) *In any case in which a complaint, information, or indictment charging a violation of Section 261, 261.5, or 262, or any crime that requires the defendant to register pursuant to subdivision (c)*

1 of Section 290, has been filed, the court may consider, in
2 determining whether good cause exists to issue an order under
3 paragraph (1) of subdivision (a), the underlying nature of the
4 offense charged, the defendant's relationship to the victim, the
5 likelihood of continuing harm to the victim, any current restraining
6 order or protective order issued by any civil or criminal court
7 involving the defendant, and the defendant's criminal history,
8 including, but not limited to, prior convictions for a violation of
9 Section 261, 261.5, or 262, or any crime that requires the defendant
10 to register pursuant to subdivision (c) of Section 290, or any other
11 forms of violence, or any weapons offenses.

12 (i) (1) In all cases in which a criminal defendant has been
13 convicted of a crime ~~of involving domestic violence as defined in~~
14 ~~Section 13700, 13700 or in Section 6211 of the Family Code,~~ a
15 violation of Section 261, 261.5, or 262, or any crime that requires
16 the defendant to register pursuant to subdivision (c) of Section
17 290, the court, at the time of sentencing, shall consider issuing an
18 order restraining the defendant from any contact with the victim.
19 The order may be valid for up to 10 years, as determined by the
20 court. This protective order may be issued by the court regardless
21 of whether the defendant is sentenced to the state prison or a county
22 jail, or whether imposition of sentence is suspended and the
23 defendant is placed on probation. It is the intent of the Legislature
24 in enacting this subdivision that the duration of any restraining
25 order issued by the court be based upon the seriousness of the facts
26 before the court, the probability of future violations, and the safety
27 of the victim and his or her immediate family.

28 (2) An order under this subdivision may include provisions for
29 electronic monitoring if the local government, upon receiving the
30 concurrence of the county sheriff or the chief probation officer
31 with jurisdiction, adopts a policy authorizing electronic monitoring
32 of defendants and specifies the agency with jurisdiction for this
33 purpose. If the court determines that the defendant has the ability
34 to pay for the monitoring program, the court shall order the
35 defendant to pay for the monitoring. If the court determines that
36 the defendant does not have the ability to pay for the electronic
37 monitoring, the court may order the electronic monitoring to be
38 paid for by the local government that adopted the policy authorizing
39 electronic monitoring. The duration of the electronic monitoring
40 shall not exceed one year from the date the order is issued.

(j) For purposes of this section, “local government” means the county that has jurisdiction over the protective order.

SEC. 2. (a) Section 1.1 of this bill incorporates amendments to Section 136.2 of the Penal Code proposed by both this bill and Assembly Bill 1850. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, (2) each bill amends Section 136.2 of the Penal Code, and (3) Senate Bill 910 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 1850, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 136.2 of the Penal Code proposed by both this bill and Senate Bill 910. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, (2) each bill amends Section 136.2 of the Penal Code, (3) Assembly Bill 1850 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 910 in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 136.2 of the Penal Code proposed by this bill, Assembly Bill 1850, and Senate Bill 910. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2015, (2) all three bills amend Section 136.2 of the Penal Code, and (3) this bill is enacted after Assembly Bill 1850 and Senate Bill 910, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.

~~SEC. 2.~~

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O